

EXHIBIT 3

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UMG RECORDINGS, INC, CAPITOL
RECORDS, LLC, CONCORD BICYCLE
ASSETS, LLC, CMGI RECORDED MUSIC
ASSETS LLC, SONY MUSIC
ENTERTAINMENT, and ARISTA MUSIC

Plaintiffs,

v.

INTERNET ARCHIVE, BREWSTER KAHLE,
KAHLE/AUSTIN FOUNDATION, GEORGE
BLOOD, and GEORGE BLOOD, L.P.

Defendants.

CASE NO. 1:23-CV-07133-LGS

**DEFENDANT KAHLE/AUSTIN
FOUNDATION'S INITIAL
DISCLOSURES**

Defendant Kahle/Austin Foundation (the Foundation) hereby makes the following disclosures under Federal Rule of Civil Procedure 26(a)(1) and does so without waiving any right to challenge personal jurisdiction in New York, following the court's ruling on Defendants' motion to transfer.

The disclosures below are based on information reasonably available to the Foundation at this time, following good-faith inquiry. The Foundation reserves the right to supplement, amend or modify his disclosures and/or produce additional information during the course of discovery and to rely on such information as evidence in this action, and to identify additional documents and witnesses likely to have discoverable information that the Foundation may use to support his defenses.

The Foundation makes these disclosures without waiving in any manner: (1) the right to object on any basis permitted by law to the use of any information contained herein for any

purpose in any subsequent proceeding in this or any other action; (2) the right to object on any basis permitted by law to any discovery request involving or related to the subject matter of these disclosures; (3) any claim of privilege, work product or other applicable protection from discovery; or (4) the right to later object to the relevancy, materiality, admissibility, undue burden, or privileged status of any matter disclosed at any time, including at the trial of this or any other action.

I. WITNESSES

Pursuant of Federal Rule of Civil Procedure 26(a)(1)(A)(iv), the Foundation hereby discloses the following individuals likely to have discoverable information that it may use to support its defenses:

WITNESS	CONTACT INFORMATION	SUBJECT OF INFORMATION
Jeff Ubois	Contact through counsel for the Foundation: Conrad Metlitzky Kane LLP 4 Embarcadero Center, Suite 1400 San Francisco, California, 94111 (415) 343-7100	For the statutorily relevant period: the Foundation's charitable giving to the Internet Archive; the Foundation's corporate structure and corporate governance; the Foundation's relationship to and lack of control over the Internet Archive's activities; board members' duties and responsibilities; the Foundation's board meetings; the Foundation's board meeting minutes and agenda
Brewster Kahle	Contact through counsel for the Foundation: Conrad Metlitzky Kane LLP 4 Embarcadero Center, Suite 1400 San Francisco, California, 94111 (415) 343-7100	For the statutorily relevant period: the Foundation's charitable giving to the Internet Archive; the Foundation's corporate structure and corporate governance; the Foundation's relationship to and lack of control over the Internet Archive's activities; board members' duties and responsibilities; the Foundation's board meetings; the Foundation's board meeting minutes and agenda

Internet Archive witness (yet to be identified)	Contact through counsel for the Internet Archive: Latham & Watkins LLP 505 Montgomery Street, Suite 2000 San Francisco, CA 94111 Tel: (415) 391-0600 or 1271 Avenue of the Americas New York, NY 10020 Tel: (212) 906-1200	For the statutorily relevant period: the Internet Archive's use of any receipts of charitable giving from the Foundation; revenue from donations; segregation of revenue from donations to discrete Internet Archive programs; the Foundation's relationship to and lack of control over the Internet Archive's activities, operations, and processes
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The Foundation also identifies any and all persons that Plaintiffs name in their Initial Disclosures, any and all persons that Co-Defendants name in their Initial Disclosures, and any and all persons that Plaintiffs and Co-Defendants identify in their responses to interrogatories with respect to the subject matters described therein. The Foundation also identifies any and all witnesses deposed by any party in this action, and any persons or entities that may provide responses to third-party subpoenas issued in this action.

II. DOCUMENTS

Pursuant to Federal Court of Civil Procedure 26(a)(1)(A)(ii), the Foundation hereby discloses the following categories of documents, electronically stored information, and tangible things in the Foundation's possession, custody, or control, and that it may use to support its defenses:

1. The Foundation's board agendas and meeting minutes
2. Documents relating to the Foundation's corporate governance
3. Documents relating to the Foundation's charitable giving to the Internet Archive
4. Documents relating to the relationship between the Foundation and the Internet Archive

III. DAMAGES

Pursuant to Federal Rule of Civil Procedure 26(a)(1)(A)(iii), the Foundation hereby discloses that it is not currently seeking damages (but it may seek attorneys' fees).

IV. INSURANCE

Pursuant of Federal Rule of Civil Procedure 26(a)(1)(A)(iv), the Foundation hereby discloses that it does not have an insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy the judgment.

DATED: November 1, 2023

Respectfully submitted,

CONRAD | METLITZKY | KANE LLP



Jessica E. Lanier (*pro hac vice*)

Attorney for Defendant Kahle/Austin Foundation

CERTIFICATE OF SERVICE

I, John Ellis, of the office of Conrad | Metlitzky | Kane LLP, hereby certify that on November 1, 2023, **Defendant Kahle/Austin Foundation's Initial Disclosures** and this **Certificate of Service** were served on counsel of record via electronic mail, to the addresses on file with the Court.

/s/ John Ellis
JOHN ELLIS
